it appears that no better evidence was obtainable. A baptismal certificate has been admitted when the officiating clergyman was available, but here the testimony of the clergyman was held to have been dispensed with by the agreement of the counsel. *Weaver* v. *Lieman*, 52 Md. 708.

The entries need not be made upon personal knowledge provided the information is communicated to the enterer, by one having such knowledge, in the course of duty. *Jones* v. *Long*, 3 Watts (Penn.) 325. Thus a train dispatcher was permitted to read to the jury entries in his record book, though the information had been furnished by others and was not within his personal knowledge. *Hitchener* v. *Railroad*, 158 Fed. 1011. Records compiled from entries in a salesman's account book, the salesman being dead and the book destroyed, have been admitted. *Stanley* v. *Wilkerson*, 63 Ark. 556, 39 S. W. 1043. Some courts refuse such evidence, however, taking the view that such evidence would be rejected even though the enterer were living, as hearsay, and that his death could not improve its value in that respect. *Chaffee* v. *United States*, 18 Wall. 516.

The leading case on this question is *Price* v. *Earl of Torrington*, Salkeld 285, 1 Smith L. C. 390, where draymen employed to deliver beer made their reports to a bookkeeper who made entries of such reports in a record book which the draymen signed, and the record was held admissible. See a full discussion in 2 WIGMORE, EV., § 1521.

EVIDENCE—NECESSITY TO ESTABLISH IDENTITY IN ORDER TO RENDER A TELEPHONIC CONVERSATION ADMISSIBLE.—Plaintiff sought to establish the breach of a contract by the admission of a certain telephonic conversation. The plaintiff's witness could not identify the defendant. *Held*, in the absence of any personal means by which the witness could identify the defendant to his own knowledge, the evidence was not admissible. *Mankes* v. *Fishman* (App. Div.), 149 N. Y. Supp. 228. See NOTES, p. 226.

EXECUTORS AND ADMINISTRATORS—POWERS—SALE OF LAND.—A will directed all debts to be paid, and certain cash legacies, from an estate consisting in bulk of real property. The debts and legacies amounted to more than the personalty. The will contained a further direction that the estate be closed up as quickly as possible. *Held*, the executors have implied power to sell the real estate, but not to mortgage it. *Heiseman* v. *Lowenstein* (Ark.), 169 S. W. 224.

Where the intention of the testator cannot be carried out without turning the real estate into money, a power to sell is implied. *Going* v. *Emery*, 16 Pick. (Mass.) 107. An express power to sell given by will contemplates an absolute conversion of the estate, and does not include the power to mortgage. *Haldenby* v. *Spofforth*, 8 L. J. Ch. (N. S.) 238, 3 Jur. 241, 1 Beav. 390; *Stokes* v. *Payne*, 58 Miss. 614, 38 Am. Rep. 340; *Bloomer* v. *Waldron*, 3 Hill. (N. Y.) 361. *Contra, Duvall's Appeal*, 38 Pa. St. 112. For the reason that a mortgage even at law is now treated as a mere security for a debt and not as a sale on condition. *Stokes* v. *Payne, supra*. However, it would seem a general power of disposal of

an estate may include a power to mortgage where such is not directly opposed to the intention of the testator and would be of greater benefit to the estate. *Faulk* v. *Dashiell*, 62 Tex. 642, 50 Am. Rep. 542. But it would seem this doctrine should be confined to relief from some pressing exigency apparent on the face of the will. See *Bloomer* v. *Waldron*, *supra*. The estate, in the principal case, is directed by the testator to be settled up as expeditiously as possible. Any implication then of a power to mortgage in this case would be contrary to the intention of the testator, for the executor would hold an equity of redemption until its foreclosure, and there would be a necessary delay in settling up the estate.

FREEDOM OF THE PRESS—CENSORSHIP OF MOVING PICTURE FILMS.—Act Ohio May 3, 1913 (103 Ohio Laws, pp. 399-401), providing for a board of censors of moving picture films and prohibiting the exhibition within the State of any film not bearing the stamp of approval of such board was alleged to be violative of the Federal and State constitutional provisions safeguarding the freedom of the press. *Held*, the act is constitutional. *Mutual Film Co.* v. *Industrial Commission of Ohio*, 215 Fed. 138. See NOTES, p. 216.

JURY TRIAL—RIGHT OF APPEAL TO—WHAT IS AN UNREASONABLE RESTRICTION UPON THE RIGHT.—A statute gave justices of the peace jurisdiction over a certain class of offences and allowed an appeal therefrom to jury trial upon the entering of a certain recognizance by the convict. The convict was unable to furnish the required recognizance.

Held, the right of trial by jury is not denied provided there is an unfettered right of appeal to jury trial but that such recognizance, as a necessary condition to allowing an appeal, is an unreasonable restriction upon the right, and mandamus will lie to command the grant of the appeal without condition. *Vetock* v. *Hufford* (W. Va.), 82 S. E. 1099. See NOTES, p. 218.

NAVIGABLE WATERS—OWNERSHIP OF LAND UNDERLYING NAVIGABLE WATERS.—Owners of land abutting on a navigable fresh-water lake attempted to fill in the bed of the lake below low-water mark in order to obtain certain ores from the bed of the lake. The State sought to enjoin the filling in. *Held*, the landowners may be enjoined from filling in the lake since the title to the bed of the lake below the low-water mark is in the State in trust for the public, and not in the abutting landowners. *State* v. *Korrer* (Minn.), 148 N. W. 617. See NOTES, p. 220.

NEGLIGENCE—INJURIES TO CHILDREN—TURNTABLE DOCTRINE.—The defendant maintained a number of empty coal cars on a sidetrack not far from an incline in the track, but they were so secured that they could not be set in motion by a child under the age of fourteen. Certain boys from fifteen to seventeen years of age set the cars in motion and on their way down the incline they ran over and killed a boy of ten years. *Held*, the defendant is not guilty of negligence under the Turntable Doctrine. See NOTES, p. 223.